

**CITY OF LUBBOCK  
REGULAR CITY COUNCIL MEETING  
December 7, 2006  
7:30 A. M.**

The City Council of the City of Lubbock, Texas met in regular session on the 7th day of December, 2006, in the City Council Chambers, first floor, City Hall, 1625 13th Street, Lubbock, Texas at 7:30 A. M.

**7:30 A.M. CITY COUNCIL CONVENED**  
City Council Chambers, 1625 13th Street, Lubbock, Texas

**Present:** Mayor David A. Miller, Mayor Pro Tem Jim Gilbreath, Council Member Gary O. Boren, Council Member Linda DeLeon, Council Member Phyllis Jones, Council Member John Leonard, Council Member Floyd Price

**Absent:** No one

**1. CITIZEN COMMENTS**

There were no citizens to express comments to Council.

**2. EXECUTIVE SESSION**

**Mayor Miller stated: "City Council will hold an Executive Session today for the purpose of consulting with the City Staff with respect to pending or contemplated litigation; the purchase, exchange, lease, or value of real property; personnel matters; competitive matters of the public power utility; and, commercial or financial information that the governmental body has received from a business prospect with which the governmental body is conducting economic development negotiations, as provided by Subchapter D of Chapter 551 of the Government Code, the Open Meetings Law."**

**7:31 A. M. CITY COUNCIL RECESSED TO EXECUTIVE SESSION**  
City Council Conference Room

All council members were present.

- 2.1. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.071, to discuss pending or contemplated litigation or settlement agreement, and hold a consultation with attorney (Finance, Police, Solid Waste, Water Utilities).**
- 2.2. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.072, to deliberate the purchase, exchange, lease, or value of real property (Business Development, LP&L, Parks and Recreation, Visitors Center, Water Utilities).**

- 2.3. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.074 (a)(1), to discuss personnel matters (City Attorney, City Manager, City Secretary) and take appropriate action.
- 2.4. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.074(a)(1), to discuss personnel matters regarding duties, responsibilities, and/or appointments to the Central Business District Tax Increment Financing Reinvestment Zone, Junked Vehicle Compliance Board, Lubbock Emergency Communications District Board of Directors, Planning & Zoning Commission, Structural Standards Commission, and Water Board of Appeals.
- 2.5. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.086, on the following competitive matters (Electric Utilities):
  - 2.5.1 to deliberate, vote and take final action on electric rates of Lubbock Power and Light;
  - 2.5.2 to discuss, vote and take final action on a competitive matter regarding operation, financial and capital statements and budgets, revenue and expense projections, strategic and business plans and studies of Lubbock Power and Light;
  - 2.5.3 to discuss and deliberate a competitive matter regarding the strategies, goals, funding and strategic purpose of the City of Lubbock's relationship with and membership in the West Texas Municipal Power Agency.
- 2.6. Hold an executive session in accordance with V.T.C.A. Government Code, Section 551.087 to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations (Business Development).

**9:40 A.M. CITY COUNCIL REGULAR MEETING RECONVENED**

**City Council Chambers**

**Present:** Mayor David A. Miller; Mayor Pro Tem Jim Gilbreath; Council Member Gary O. Boren; Council Member Linda DeLeon; Council Member Phyllis Jones; Council Member John Leonard; Council Member Floyd Price; Lee Ann Dumbauld, City Manager; Anita Burgess, City Attorney; and Rebecca Garza, City Secretary

**Absent:** No one

**Mayor Miller reconvened the meeting at 9:40 a. m.**

**3. PROCLAMATIONS AND PRESENTATIONS**

**3.1. Invocation by Pastor Larry Brooks, Community Baptist Church.**

**3.2. Pledge of Allegiance to the Flags.**

Pledge of Allegiance was given in unison by those in the City Council Chambers to both the United States flag and the Texas flag.

**3.3. Board Recognition**

**Board of Directors, Reese Redevelopment Authority:**

**Gary Andrews** – unable to attend

**Greg Garland** – unable to attend

**4. MINUTES**

**4.1. Approval of Prior Meeting Minutes: Regular City Council Meeting, November 9, 2006**

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to approve the minutes of the Regular City Council Meeting of November 9, 2006 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**5. CONSENT AGENDA (Items 5.1-5.2, 5.5-5.6, 5.9-5.17)**

Motion was made by Council Member DeLeon, seconded by Council Member Price to approve Items 5.1-5.2, 5.5-5.6, 5.9-5.17) on consent agenda as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**5.1. Extraterritorial Jurisdiction Resolution - Planning: Resolution No. 2006-R0571 authorizing written consent to release extraterritorial jurisdiction to the City of New Deal for 323 acres located in the City of Lubbock's extraterritorial jurisdiction (ETJ) immediately south of and adjacent to the City of New Deal.**

Subsequent to a letter dated October 11, 2006, from City of New Deal Mayor Christopher Bruce and Mayor Pro tem Wayne McCray, Mayor David Miller met with Mr. Bruce, Mr. McCray and New Deal School District Superintendent Jimmy Henderson regarding a request to release extraterritorial jurisdiction to the City of New Deal for 323 acres located in the City of Lubbock's extraterritorial jurisdiction (ETJ) immediately south of and adjacent to the City of New Deal. Provided in backup is a copy of the letter and a graphic that outlines the three areas the City of New Deal has requested to be released from the City of Lubbock Extraterritorial Jurisdiction (EJT) by the Lubbock City Council.

The parcels were never in an ETJ “overlap” area as was presumed in a 1996 letter from Lubbock Mayor Langston to New Deal Mayor Ford (included in backup). That letter indicated that the opinion of the Planning and Legal Departments was that the proposed annexation (area B on the drawing in

back-up) could occur without “permission” from the Lubbock City Council. That presumption was incorrect.

Subsequent research has revealed that New Deal never had ETJ rights to the land south of the original incorporated city limits of New Deal (incorporated in June 1970) since Lubbock annexed an area in 1958 that created the original 1964 ETJ “base line” as described by State Law. That 1964 line corresponds with the original south boundary of New Deal, thus giving Lubbock sole rights to that ETJ area. Subsequent annexations by Lubbock (the “dump”, the Airport, and the Lubbock Economic Development Alliance parcel) have caused the Lubbock five mile ETJ to completely lap north of New Deal, but New Deal has first claim to their original (1970) half mile ETJ and there is no “overlap” other than this area in question.

The request of the City Council of New Deal is for the Lubbock City Council to approve a resolution to release the Lubbock ETJ “rights” to the approximate 220 acres illustrated in the drawing in backup:

Area A – an area including a metal recycling plant that needs water from New Deal. The parcel is east of I-27.

Area B - is already annexed to New Deal, with a 1996 letter of support from Mayor Langston. This area is west of I-27.

Area C – a developer has indicated an interest for building a “starter” home subdivision.

The New Deal City Council and School District are concerned that there is not an area in the current City of New Deal to develop a new subdivision, and that both the City and School District are in need of a new home subdivision for residents who want to live in New Deal and have their children attend New Deal schools. Mr. Henderson pointed out that when the City of Lubbock requested the New Deal Independent School District to participate in the Freeport at Lubbock Preston Smith Airport, the Board agreed to the request.

During several discussions with New Deal City Councils in the 1980s, when the half-mile south of the original incorporation was not clearly understood, the Lubbock City Council actually agreed to enter into a contract with New Deal to cede the half-mile of ETJ to New Deal from Lubbock. Those contracts were never completed for reasons unknown. It might be noted that the area requested for release is more than five miles from any residentially developed property in Lubbock. Only the “dump”, airport, and LEDA annexations make the current lines extend north of New Deal.

#### **FISCAL IMPACT**

No fiscal impact anticipated.

Staff recommended approval of this resolution.

- 5.2. Annexation Ordinance 2nd Reading - Planning: Ordinance No. 2006-O0121 Consider an ordinance annexing an area of land described generally as east of Indiana Avenue, south of 116th Street, to 660 feet south of F.M. 1585, two sides of which are adjacent to the existing corporate limits of the City of Lubbock, Texas.**

On September 13, 2006, City Council instructed the Planning Department to initiate the process of annexation of an area generally located east of Indiana Avenue, south of 116th Street, to 660 feet south of F.M. 1585. The Council then conducted two public hearings. During both public hearings, several individuals owning property in the north portion of the area appeared in opposition to the proposal. The map illustrated in the backup materials shows an area surrounded in red as the parcel requested for annexation by Mr. Betenbough. The area bounded by green represents the area recommended by the Planning staff that creates a boundary consistent with annexation policy as noted within the Comprehensive Land Use Plan (that annexation should not create “pockets” on the perimeter of the City). An ordinance, map, and service plan are provided.

#### **FISCAL IMPACT**

No capital expense is recommended in the proposed service plan as the area fits the definition under State law allowing annexation to provide services “as in like areas” of the rest of the City. Operational expenses (soft services – police, fire, etc.) will be absorbed by various departments within current operating budgets.

The staff recommended annexation of the entire area noted as Exhibit A within the proposed service plan.

- 5.3. This item was moved from consent agenda to regular agenda and considered following Item 5.17.**
- 5.4. This item was moved from consent agenda to regular agenda and considered following Item 5.3.**
- 5.5. Right-of-Way Ordinance 1st Reading - Right-of-Way: Ordinance No. 2006-O0124 abandoning and closing a portion of a 10-foot sewer line easement located in Lot 305, Suncrest addition, easement located at 4722 106th Street.**

This ordinance abandons and closes a portion of a 10-foot sewer line easement along the south side of Lot 305, Suncrest Addition. This easement was dedicated before the platting of the lot and the developer is now requesting the closure of a portion of this easement. Water Utilities Engineering Department is in agreement with closing a portion of this sewer line easement.

#### **FISCAL IMPACT**

No fiscal impact anticipated.

Staff recommended approval of the first reading of this ordinance.

- 5.6. Alley Use License Resolution - Right-of-Way: Resolution No. 2006-R0572 authorizing the Mayor to execute an alley use license with Meals on Wheels, Inc., to use a portion of a dedicated alley for a grease interceptor located at 2304 34th Street.**

Lorrie Bellair with Meals on Wheels, Inc. has requested an alley use license to install a grease interceptor in the alley just west of Avenue W between 33rd Street and 34th Street. The charge for this license will be \$50 per year. The license will be for 20 years, payable every five years in advance. All utility companies are in agreement with this authorizing license.

**FISCAL IMPACT**

Annual \$50 revenue to the General Fund.

Staff recommended approval of this resolution.

- 5.7. License Agreement Amendment Resolution - Civic Center: Consider a resolution authorizing the Mayor to execute an amendment to the agreement with Civic Lubbock, Inc. with regard to adjusting concession commissions and salary reimbursements and the collection of catering and merchandise fees.**

**This item was deleted.**

- 5.8. This item was moved from consent agenda to regular agenda and considered following Item 5.4.**

- 5.9. North Overton Tax Increment Financing Reinvestment Zone 2006 Annual Report Resolution - Business Development: Resolution No. 2006-R0573 authorizing the Mayor to execute the North Overton Tax Increment Financing Reinvestment Zone Annual Report for October 1, 2005, through September 30, 2006, which will be distributed to the chief executive officer of each taxing unit levying taxes within the North Overton Tax Increment Financing Reinvestment Zone, to the Comptroller of the State of Texas, and to the Office of the Texas Attorney General.**

The City Council created the North Overton Tax Increment Finance Reinvestment Zone (TIRZ) and appointed the TIRZ Board on March 14, 2002. According to the Texas Tax Increment Finance Act Section 311.016, the City must submit an annual report to the chief executive officer of each taxing unit that levies taxes on property within a tax increment finance zone. The report must be provided within 90 days of the end of the City's fiscal year and a copy of the report must also be sent to the Office of the Attorney General and the Comptrollers Office.

The Texas Tax Increment Finance Act specifies that the report must include:

- Amount and source of revenue in the tax increment fund established for the zone,
- Amount and purpose of expenditures from the fund,

- Amount of principal and interest due on outstanding bonded indebtedness,
- Tax increment base and current captured appraised value retained by the zone,
- Captured appraised value shared by the City and other taxing units,
- Total amount of tax increments received, and
- Any additional information necessary to demonstrate compliance with the tax increment financing plan adopted by the City.

Staff prepared the 2006 annual report, which includes all of the information required by the above statute, and submitted it to the North Overton TIRZ Board of Directors for approval. A summary of the information included in the report is as follows:

In May 2006, the North Overton TIRZ received \$933,267.96 in net revenue for value earned in 2005 after the deduction of \$1,119.30 for collection services. Expenses in 2006 included \$5,973 in administrative costs and \$1,284,127 that was transferred to debt service. Total expenditures life-to-date for public infrastructure capital projects in the North Overton TIRZ was \$9,733,969.

The City has issued bonds for the North Overton TIRZ capital projects in the amount of \$19.385 million. These capital projects include sewer, water, electric, streets, and landscaping in the parkway.

The North Overton TIRZ appraised value increased to \$185,442,083 in 2006 with a current captured appraised value of \$158,501,479. The current captured appraised value is the total value after the base year value is subtracted. The total tax increment to be received by the North Overton TIRZ in 2007, from 2006 value, if collected at 98% is projected to be \$1,350,436 from all taxing jurisdictions.

The North Overton Tax Increment Financing Reinvestment Zone Board of Directors approved the report at their meeting on November 20, 2006.

#### **FISCAL IMPACT**

No fiscal impact is anticipated.

Staff recommended that the City Council approve distribution of the 2006 North Overton Tax Increment Financing Reinvestment Zone Annual Report as recommended by the North Overton Tax Increment Financing Reinvestment Zone Board of Directors on November 20, 2006.

- 5.10. Amendment to Market Lubbock Inc. Articles of Incorporation - Business Development: Resolution No. 2006-R0574 amending the Market Lubbock Inc. Articles of Incorporation and By Laws to expand its Board of Directors to eight members to have an eighth director appointed as a representative of the Hotel/Motel Association.**

For the last couple of years, a representative of the Hotel/Motel Association has served as an advisory member of the Market Lubbock Inc. (MLI) Board of Directors. It is the desire of the MLI Board and the Chief Executive Officer (CEO) to amend the Articles of Incorporation and By Laws of MLI to change the advisory status of the representative of the hotel/motel industry to that of a voting Board member. The intent is that the MLI Board and CEO will make a recommendation to the City Council for this Board appointment. All amendments to the MLI Articles of Incorporation and the MLI By-Laws must be approved by the City Council.

The Lubbock Convention and Visitors Bureau (LCVB) and the Sports Authority report to the MLI Board. Many of the functions of the LCVB and Sports Authority impact the hotel and motel industry and rental car and restaurant businesses in the community. A representative of the hotel/motel industry has been an asset as an advisory member and will be an asset as a voting member.

#### **FISCAL IMPACT**

No fiscal impact anticipated.

The MLI Board and CEO recommended approval of this amendment.

#### **5.11. Tax Abatement Contract Resolution - Business Development: Resolution No. 2006-R0575 authorizing the Mayor to execute an industrial tax abatement agreement with SemMaterials, LP to expand their existing facility at 1611 Marshall Street.**

The City has received an application for industrial tax abatement from SemMaterials, LP. SemMaterials has an existing facility at 1611 Marshall Street and has bought two additional parcels of land adjacent to the existing property to enable them to expand their facility. One of the adjacent parcels was recently purchased from the City, which puts the property back on the tax roll. The site is located in the Lubbock 2000 North Enterprise Zone.

The project meets the Industrial Tax Abatement Policy and Guidelines minimum investment of \$500,000 in real property improvements for an existing company. Total investment in the project will be approximately \$3.6 million in real property improvements and \$8.8 million in machinery and equipment. Fifteen new jobs will be created with this expansion.

At the November 21, 2006, City Council meeting, City Council approved the Notice of Intent which was then forwarded to the other taxing jurisdictions. Staff has recommended a five-year declining scale tax abatement.

#### **FISCAL IMPACT**

The estimated total amount of the City tax abatement will be \$172,753 over five years.

Staff recommended approval of this resolution.

**5.12. Economic Development Grant Resolution - Business Development: Resolution No. 2006-R0576 creating two new economic development programs to assist in the development of Lubbock Rail Port Park and Lubbock Business Park and authorizing the Mayor to sign a Grant Agreement between the City of Lubbock and Lubbock Economic Development Alliance.**

The Lubbock Economic Development Alliance (LEDA) has asked the City to assist them in obtaining and developing two business parks in Lubbock for industrial businesses. The Rail Port Park, north of Lubbock Preston Smith International Airport as shown in Exhibit A of the Agreement, is located in a Reinvestment Zone and two parcels, identified as Lubbock Business Park, are located in an Enterprise Zone. In order to respond to their request, the City must create two programs as required by state law. LEDA has asked for financial assistance to purchase the 301 acre tract of land north of Lubbock Preston Smith International Airport, owned by the City of Lubbock, for development as industrial/ manufacturing sites. Section 380.001 of the Texas Local Government Code allows the City to provide financial assistance to LEDA in developing the Rail Port Park.

In addition, LEDA is interested in purchasing two pieces of vacant land located outside Loop 289 on both sides of Municipal Drive as shown in Exhibit B of the Agreement. This property is located in the North Enterprise Zone, which allows the City to sell property at below market value pursuant to the authority granted to the City by Section 380.001 of the Texas Local Government Code and Section 2303.513 of the Texas Government Code.

This resolution authorizes the Mayor to sign an agreement that will benefit the public interest and will stimulate business and commercial activity and serve to promote economic development in Lubbock.

**FISCAL IMPACT**

The appraised value of the land is \$390,000. As part of the Grant Agreement the City will provide LEDA the funding to purchase the land from the City. As LEDA recruits new businesses to this site, the City will benefit through the new investment going on the tax role.

Staff recommended approval of this resolution.

**5.13. Contract of Sale Resolution - Business Development: Resolution No. 2006-R0577 and order authorizing the Mayor to execute a Contract of Sale with Lubbock Economic Development Alliance to convey two parcels of vacant land located in the North Enterprise Zone.**

Lubbock Economic Development Alliance (LEDA) is aggregating property for the purpose of business attraction and retention. The intent of this Contract of Sale is to convey two parcels of city-owned property to LEDA for economic development purposes. This property is located outside the Northeast Loop on Municipal Drive as shown in Exhibit A of the Contract of Sale and is located in the North Enterprise Zone. As per this contract, LEDA

will purchase the property at below market value pursuant to the authority granted to the City of Lubbock by Section 380.001 of the Texas Local Government Code and Section 2303.513 of the Texas Government Code.

To meet the criteria of the statute, City Council must find that the sale of the two vacant parcels, which are located in the North Enterprise Zone described in Exhibit "A" of the Contract of Sale, at less than fair market value to Lubbock Economic Development Alliance will be in the public interest and will serve as an incentive to stimulate business and commercial activity and will also serve to promote economic development in Lubbock. In addition to these findings, City Council sets forth the following conditions and circumstances under which the sale may occur:

- a. The land must only be used for economic development purposes as part of the Lubbock Business Park, and
- b. Lubbock Business Park must be marketed and developed for light industry within a reasonable period of time.

#### **FISCAL IMPACT**

The purchase price of the properties is \$1,000. LEDA is the economic development entity for the City of Lubbock and focuses on business recruitment and retention.

Staff recommended approval of this resolution.

**5.14. Contract of Sale Resolution - Business Development: Resolution No. 2006-R0578 authorizing the Mayor to execute a Contract of Sale to convey 301 acres north of the Lubbock Preston Smith International Airport to Lubbock Economic Development Alliance.**

The Lubbock Economic Development Alliance (LEDA) has asked the City to assist them in obtaining and developing marketable sites in Lubbock for industrial businesses. LEDA has asked that the City-owned 301 acre tract of land north of Lubbock Preston Smith International Airport be sold to them for development into industrial sites. On October 26, 2006, the City Council approved an Ordinance creating a Reinvestment Zone for this property.

It is the desire of LEDA to use this property to attract new businesses/industries to Lubbock. This resolution authorizes the Mayor to sign a Contract of Sale and associated documents to convey ownership of the land to LEDA and it allows LEDA to negotiate directly with the proposed client. In addition, the responsibility of the railroad spurs located on the property is transferred to LEDA.

#### **FISCAL IMPACT**

The value of the land is \$390,000. The land sale proceeds of \$390,000 will be returned to the General Fund to reimburse the grant amount provided to LEDA. As LEDA recruits new businesses to this site, the City will benefit through the new investment being placed on the tax roll.

Staff recommended approval of this resolution.

**5.15. Contract Resolution - Business Development: Resolution No. 2006-R0579 authorizing the Mayor to execute a Professional Services Agreement with Parkhill, Smith & Cooper, Inc. to represent the City as “City Specialist” during design and construction of the Conference Center in Overton Park.**

The City Council approved a Master Development Agreement (MDA) with Overton Park Hotel, LP on February 24, 2006. Section 2.1.2 of the MDA states “The City shall retain, at its sole cost and expense (which will not be included in the City Contribution), subject to the provisions of the Texas Professional Services Procurement Act, City Specialists and Consultants necessary to advise the City on the development of the Project.”

This contract will engage Mary Crites, a Principal with Parkhill, Smith & Cooper, to serve in this advisement capacity. The amount of the contract is \$120,000 and includes a scope of services as defined in the MDA. The fees for the services described above will be billed on an hourly basis, including reimbursable expenses. Reimbursable expenses will be billed at invoice cost plus a fifteen percent markup for handling costs.

**FISCAL IMPACT**

The funding for this contract has been appropriated in Project 91074, Public Facilities in the North Overton TIF Zone Fund.

Staff recommended approval of this resolution.

**5.16. Contract Resolution - Community Development: Resolution No. 2006-R0580 authorizing the Mayor to execute a contract with Central Lubbock Church of Christ Inside Out Ministry from the Community Development Block Grant to make available funds for a facility renovation project.**

The Central Lubbock Church of Christ Inside Out Ministry (Grantee) will use funds from the FY 2005-06 Community Development Block Grant (CDBG) reallocated funds to renovate two facilities located at 2110 Avenue M and 1409 24th Street.

The Community Development and Services Board (CDSB) voted to recommend funding for this facility renovation project at its regularly scheduled meeting on January 11, 2006. Funding was approved by City Council at the March 9, 2006, City Council meeting during their annual reallocation of CDBG funds. The first reading of a budget amendment for this contract was approved by City Council on September 13, 2006.

The City will provide Grantee assistance from Department of Housing and Urban Development funds in an amount not to exceed \$45,000 from FY 2005-06 funds in return for Grantee performing the activities set forth in the agreement as consideration for said funds. The Grantee must provide a 25% match to the project. At the completion of the project, the Grantee will be

subject to the 25% payback requirement. The Grantee will have the option of paying back the \$11,250 in one lump sum 30-days after completion of the project or in equal payments for up to ten years at 0% interest.

The term of the contract is December 7, 2006, through September 30, 2008.

#### **FISCAL IMPACT**

The maximum Community Development Block Grant Funds to be allocated to this project is \$45,000.

Staff recommended approval of this resolution.

**5.17. Contract Resolution - Traffic Engineering: Resolution No. 2006-R0581 authorizing the Mayor to execute a purchase order contract with Vulcan Signs Inc. for street marker sheeted blanks, Bid 06-078-RW.**

This bid is for the purchase of sign blanks used by Traffic Engineering to make nine-inch street name markers meeting the specific needs of the department. Vulcan Signs Inc. meets the bid specifications and is the low bidder. These materials are part of a 10-year plan, now in its seventh year, to upgrade all the street name markers in the City per federal requirements.

#### **FISCAL IMPACT**

\$100,000 is appropriated in the adopted FY 2006-07 Traffic Engineering Operating Budget, in account 4525.8264 for street name markers.

Staff recommended bid award to Vulcan Signs & Stamping of Foley, Alabama for \$28,135.

**5.18. This item was moved from consent agenda to regular agenda and considered following Item 5.8.**

**5.19. This item was moved from consent agenda to regular agenda and considered following Item 5.18.**

#### **6. REGULAR AGENDA**

**Note: Regular Agenda items, and Consent Agenda items moved to Regular Agenda, are listed in the order they were addressed (Items 5.3-5.4, 5.8, 5.18-5.19, 6.1-6.12)**

**5.3. Ordinance Amendment 2nd Reading - Water Utilities: Ordinance No. 2006-O0123 Consider an ordinance amending Chapter 28 of the Code of Ordinances to provide consistency with the Water Use Management Plan by updating Sections 28-44 and 28-45, Operation of Irrigation Systems or Devices.**

This ordinance amendment will provide consistency with the Water Use Management Plan recently adopted by the City Council by updating Sections 28-44 and 28-45, Operation of Irrigation Systems or Devices. This ordinance is referenced in the Water Use Management Plan as a supporting document. Other changes will assist staff in promoting the proper installation of irrigation systems. Properly installed systems have less run-off.

Some of the additions to the ordinance include the following:

- \* Required City inspection of new irrigation systems.
- \* Sprinkler heads will be located 4” from curbs, sidewalks, fencing, buildings, etc.
- \* Sprinkler systems must be designed to spray only on pervious surfaces or landscaped areas.
- \* Irrigation systems must have a master valve.

The proposed ordinance has been approved by the Lubbock Water Advisory Commission.

#### **FISCAL IMPACT**

No fiscal impact anticipated.

Staff recommended approval of the second reading of this ordinance.

Tom Adams, Deputy City Manager/Water Utilities Director, gave comments and answered questions from Council. Council Member Leonard asked that all items dealing with code revisions (construction) go through the Model Codes and Construction Advisory Board before coming to Council.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to pass on second and final reading Ordinance No. 2006-O0123 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

#### **5.4. Budget Amendment Ordinance 2nd Reading - Finance: Ordinance No. 2006-O0122 Consider budget ordinance Amendment No. 3 amending the FY 2006-07 budget respecting the General Fund, Grant Fund, and LP&L Fund.**

1. Appropriate \$80,000 of General Fund fund balance and authorize two additional full-time auditor positions to address the need within the organization for the ongoing evaluation of business processes, compliance and internal controls. These positions have been continually requested by the City's Audit Committee. The appropriation will fund two new positions for eight months of the fiscal year, with an estimated hire date of February 1, 2007.
2. Accept and appropriate a \$50,000 grant from the Governor's Division of Emergency Management for the 2005 Buffer Zone Protection Program to aid in the preparedness efforts of local law enforcement.
3. Amend the operating budget and staffing in the LP&L Fund. Specific information regarding these projects is competitive information protected under Chapter 552.133 of the Texas Government Code.

#### **FISCAL IMPACT**

Included in backup information.

Staff recommended approval of the second reading of this ordinance.

Motion was made by Council Member Jones, seconded by Council Member Price to pass on second and final reading Ordinance No. 2006-00122 as recommended by staff. Motion carried: 5 Ayes, 2 Nays. Council Members Leonard and Boren voted Nay.

**5.8. Contract Resolution - Civic Center: Resolution No. 2006-R0582 authorizing the Mayor to execute an agreement with City Bank for naming rights for the Lubbock Municipal Auditorium and the Lubbock Municipal Coliseum.**

The City owns, operates, and leases the Lubbock Municipal Coliseum and the Lubbock Municipal Auditorium for sports, cultural, civic, and entertainment events. City Bank desires to show its support of the community by purchasing the naming rights for the Lubbock Municipal Auditorium and Municipal Coliseum. City Bank has agreed to pay \$100,000 each year for five years with an option to renew the agreement for an additional five years. If the City begins design or construction of a new coliseum or auditorium during the term of the agreement, City Bank will have a right of first refusal to acquire the exclusive naming rights to the new facility on mutually agreeable terms. As part of the agreement, the City agrees to pay the first year's payment to the Cotton Kings for their participation in obtaining the naming rights agreement for the City.

**FISCAL IMPACT**

Anticipated revenue of \$100,000 to the General Fund each year for five years with an option of \$100,000 each year for five additional years.

Staff recommended approval of this resolution.

City Manager Lee Ann Dumbauld and City Attorney Anita Burgess gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Boren to pass Resolution No. 2006-R0582 with an amendment to delete the last sentence of Section 2 of the proposed Naming Rights Agreement, which states "It is the intent of the parties that upon execution of this Agreement and receipt of the first payment, the city will transfer the first payment to the Cotton Kings." Motion carried: 7 Ayes, 0 Nays.

**5.18. Contract Resolution - Police: Resolution No. 2006-R0583 authorizing the Mayor to execute a purchase order contract for ergonomic 9-1-1 dispatch consoles, RFP 05-130-BM.**

This item involves the purchase of three ergonomic consoles that will give telecommunicators the option of standing or sitting during their shift without leaving their stations, and will provide the necessary comforts for each individual telecommunicator. Each console has environmental controls to allow a telecommunicator to adjust individual temperature.

Staff solicited competitive sealed proposals (RFP 05-130-BM) for this equipment and on February 2006, Council approved the purchase of three

dispatch consoles from Watson Furniture Group (Resolution No. 2006-R0067). The purchase of three additional consoles will allow the communication center to be uniform in ergonomic console design, environmental control capabilities, and aesthetics.

#### **FISCAL IMPACT**

A total of \$39,812 is available in the adopted FY 2006-07 Police Operating Budget in account number 5717.9147, Police Communication Miscellaneous Office Furniture.

Staff recommended purchase order contract to Watson Furniture Group of Poulsbo, Washington for \$36,707.66.

Sheri Sanderson, Assistant to the City Manager, gave comments and answered questions from Council.

Motion was made by Council Member Leonard, seconded by Council Member Price to pass Resolution No. 2006-R0583 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**5.19. Contract Amendment Resolution - Water Utilities: Resolution No. 2006-R0584 authorizing the Mayor to execute a contract amendment with Malcolm Pirnie amending the scope of services for the Water and Sewer Rate Study, Cost of Service Study, and related services.**

The original contract with Malcolm Pirnie was approved on December 1, 2004. The contract was intended to enable the City to develop: (1) a financial model for the water and sewer rates, (2) a water and sewer rate model based upon the financial model information, and (3) a cost of service study by customer class.

The original contract was amended once the necessary computer software modifications were near completions to allow for the models to be redeveloped with current financial information. This amendment was necessary so that the model information would reflect current financial information as approved by the Lubbock Water Advisory Commission and the City Council in the FY 2006-07 Annual Budget.

Previously approved funding has enabled the City to complete the development of the financial model, the rate model, and the cost of service study. Representatives of the company have presented their recommendations to the Lubbock Water Advisory Commission for consideration. Additional funding is necessary for the project to be completed with a final presentation to the City Council.

#### **FISCAL IMPACT**

The contract amendment amount is for an additional \$10,000. The total contract amount for the two year period is \$214,875. The additional \$10,000 is available in the Adopted FY 2005-06 Water and Wastewater Operating Budgets.

The Lubbock Water Advisory Commission has reviewed the proposed financial, rate, and cost of service information and recommended that it now be considered by the City Council for approval. Staff recommended that funding be approved to enable a final presentation to complete the project.

Tom Adams, Deputy City Manager/Water Utilities Director, gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Price to pass Resolution No. 2006-R0584 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.1. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2006-O0125 Zone Case No. 2573-I (5002 Auburn Street): Hold a public hearing to consider request of I & S Investment Group for a zoning change from C-3 to IHC on 9 acres out of Block A, Section 22, Tracts C and D.**

Mayor Miller opened the public hearing at 10:00 a. m. No one appeared on behalf of I & S Investment Group. No one appeared in opposition. Mayor Miller closed the hearing at 10:30 a. m.

The area being requested for rezoning is zoned C-3 in all directions and adjacent to a recently completed La Quinta Motel. Adjacent land use is zoned for commercial in all directions.

The request is consistent with the conceptual Comprehensive Land Use Plan Amendment for the area bounded by Erskine, Chicago, and NW Loop 289. The Plan illustrates a variety of commercial, entertainment and high density development in this triangle. The proposed use will have no immediate effect on any single family development since there is none in the vicinity.

Long range, the project will have an impact on the thoroughfare system, but the MPO, TxDOT, and City Council are actively engaged in development of extensions improvements of the Northwest Passage thoroughfare system to help alleviate the increased load on the system when improvements in this area are accomplished.

The Planning Commission recommended approval of the request.

**FISCAL IMPACT**

No fiscal impact anticipated.

The staff supports the recommendation of the Planning Commission.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to pass on first reading Ordinance No. 2006-O0125 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.2. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2006-O0126 Zone Case No. 3069 (5710 and 5712 45th Street): Hold a public hearing to consider request of Jack Hargrave (for Church of the Harvest A/G) for a zoning change from R-1 to A-2 limited to church and church related uses on Lots 5-7, Block 10 Westmoreland Addition.**

Mayor Miller opened the public hearing at 10:00 a. m. No one appeared on behalf of Church of the Harvest A/G. No one appeared in opposition. Mayor Miller closed the hearing at 10:03 a. m.

This proposal will add a parcel west of an existing church and zone for the entire location of the church.

Adjacent land uses:

N – multifamily  
S – residentially zoned  
E – existing church  
W – commercial

The expansion of the church on this property is the most practical use of the small parcel, and new development of residential on this property is very remote with the adjacent land uses. The request is consistent with policies within the Comprehensive Land Use Plan. Approval of the request should not cause any impact on the thoroughfare system.

The Planning Commission recommended approval of the request with one condition:

- Limited to church and church related uses.

#### **FISCAL IMPACT**

No fiscal impact anticipated.

The staff supports the recommendation of the Planning Commission.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to pass on first reading Ordinance No. 2006-O0126 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.3. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2006-O0127 Zone Case No. 3070 (8116 19th Street): Hold a public hearing to consider request of Joe Haynes (for Haynes Meat Market) for a zoning change from T to C-4 on .823 acres out of Tract M, Block D6, Section 2.**

Mayor Miller opened the public hearing at 10:00 a. m. No one appeared on behalf of Haynes Meat Market. No one appeared in opposition. Mayor Miller closed the hearing at 10:03 a. m.

This request will zone a building occupied by Haynes Meat Market since 1984 as a nonconforming use. The structure has been used in a nonconforming manner since it was annexed and remains zoned “T”.

Adjacent land uses:

N – vacant  
S – vacant  
E – commercial  
W – commercial

The proposal meets the “West 19th Street Corridor” policy criteria that have been informally followed by the Planning Commission and City Council for years with regard to zoning for C-4 along 19th Street west of Loop 289. Traditionally, a number of normally permitted uses C-4 permitted uses have been eliminated. The policy has evolved since the 1960’s on land outside the Loop adjacent to 19th Street since the street is a State Highway and many heavy commercial uses were inherited (as well as the fact that the Comprehensive Land Use Plan recommended that C-4 be limited to major highways and expressways), but several C-4 uses have been identified during numerous zone cases as not the most compatible with the entry portal to Lubbock represented by 19th Street. Thus, the request – with conditions – meets both Comprehensive Land Use Plan and zoning policies. Mr. Haynes indicates the proposed “strikes” will work for his purposes. The project will have no additional impact on the thoroughfare system.

As in a number of previous cases, the Planning Commission recommended the request with the following conditions:

1. The zoning shall be C-4 with the elimination of the following as permitted uses:
  - Automobile body shops
  - Billboards
  - Commercial private clubs and teenage clubs
  - Dancehall
  - Used furniture store
  - Game room except as an incidental use, pool, billiard and/or domino parlor
  - Motorcycle shop
  - Second hand goods store or pawn shop
  - Used car lot
  - Nightclubs
2. When redeveloped, the parcel shall be limited to one curb return.

#### **FISCAL IMPACT**

No fiscal impact anticipated.

The staff supports the recommendation of the Planning Commission.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to pass on first reading Ordinance No. 2006-00127 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.4. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2006-O0128 Zone Case No. 3071 (2915 98th Street): Hold a public hearing to consider request of Hugo Reed and Associates, Inc. (for SW Commercial Management) for a zoning change from R-1 to GO on one acre, Block E2, Section 20.**

Mayor Miller opened the public hearing at 10:00 a. m. No one appeared on behalf of SW Commercial Management. No one appeared in opposition. Mayor Miller closed the hearing at 10:03 a. m.

This request will rezone a farmstead home parcel that has been on 98th Street for many years.

Adjacent land uses:

N – residential

S – existing farm

E – vacant, zoned residential

W – vacant, zoned Garden Office

The proposal is on a parcel adjacent to an undeveloped Garden Office tract to the west and the remnants of a former cattle operation on the south. A home remains on the land to the south but the cattle operation no longer exists, and the land is zoned R-1.

As a buffer District adjacent to 98th Street, the Garden Office fits the concept of policy within the Comprehensive Land Use Plan.

With the size of the parcel and location, staff would recommended a limitation of one curb return when the parcel is redeveloped as an office and parking is installed. This will benefit less congestion for 98th Street at this location. Otherwise, approval of the project should have no negative effect on the thoroughfare system.

The Planning Commission recommended the request with one condition:

1. When redeveloped, the parcel shall be limited to one curb return.

**FISCAL IMPACT**

No fiscal impact anticipated.

The staff supports the recommendation of the Planning Commission.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to pass on first reading Ordinance No. 2006-O0128 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.5. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2006-O0129 Zone Case No. 2933-A: Hold a public hearing to consider request of Betenbough Homes for a zoning change from GO, A-2, R-2, R-1 and T to C-3, A-2 and R-1 Specific Use on 60 acres of Section 27, Block A.**

Mayor Miller opened the public hearing at 10:00 a. m. No one appeared on behalf of Betenbough Homes. No one appeared in opposition. Mayor Miller closed the hearing at 10:03 a. m.

The map provided in backup is distinguished by 12 tracts of land. Ten of the tracts are requested for rezoning as the master plan for the Monterey Park development matures. Tracts 8 and 9 on the drawing are already zoned and are not included in this request.

The zoning adjacent to the various tracts is a mixture of single family, apartment and commercial.

Descriptions of current and proposed zoning for the various tracts of land (Tract numbers are shown on drawing in backup):

1. Garden Office to C-3 between Pontiac and residential that faces Quincy.
2. A-2 to C-3 (to combine with Tract 1) between Pontiac and residential that faces Quincy.
3. A-2 to R-1 Specific Use (the new cul de sac as 83rd Street).
4. R-2 to R-1 Specific Use between Mobile Avenue and Pontiac that back up to the A-2 on 82nd Street (north of 84th).
5. R-2 to C-3 that will combine with C-3 to the north on 82nd Street facing Milwaukee.
6. R-1 to C-3 that will combine with Tract 5 to add to the C-3 on 82nd – facing the new Wal-Mart under construction east of Milwaukee.
7. R-2 to R-1 Specific Use with conditions west of Milwaukee along 94th Street.
8. The A-2 illustrated on the drawing in backup is currently zoned A-2.
9. The C-3 at the corner of 98th and Milwaukee is in place.
10. A-2 out of “T” zoned property at the present, not included in the zoning request.
11. A-2 out of “T” zoned property at the present, not included in this zoning request.
12. The C-3 request represents a policy request.

Review of requests by Area numbers:

- Tracts 1 and 2 are consistent with the strip commercial that is prevalent with other strip commercial and non-residential uses along 82nd Street. The applicant is proposing Tract 3 as single family to the south and will have to deal with any impact the proposed commercial has on land sales. The Dakota Arms apartments are to the east.
- Tracts 3 and 4 are proposed to be down zoned to single family with conditions for reduced setback that have become the norm for new development.

- Tracts 5 and 6 are an extension of the existing C-3 along Milwaukee, and are across from the Wal-Mart that is under construction, with an alley to the south that will border single family. The Code will require a screening fence on the south and west of these two tracts, and again, any marketing issue for that residential property will be an issue with the applicant.
- Tract 7 is a down zone, which is normally an acceptable Comprehensive Land Use Plan issue, and the applicant will have his own marketing issue with the proposed A-2 that is in place in Tract 8.
- Tract 8 is an existing buffer A-2 district between the C-3 already zoned for Tract 9 and the residential noted at Tract 7.
- Tract 9 is per Comprehensive Land Use Plan policy and is currently zoned C-3 (corner of 98th and Milwaukee).
- Tracts 10 and 11 are A-2 requests, which may eventually find a market as either church tracts or apartment tracts. Regardless, the request is consistent with Comprehensive Land Use Plan Policy in that apartments and/or churches are located on the perimeter of neighborhoods with access to a major thoroughfare. The staff has discussed with Mr. Betenbough that the “holding” of these two tracts for possible future commercial development would not be consistent with current development policy.
- Tract 12 is consistent with the Comprehensive Land Use Plan as policy for commercial at the corner of 98th Street and Upland Avenue.

The proposals, while several are out of the parameters of the current Comprehensive Land Use Plan policy in theory, fit the development patterns that have evolved in this part of the community.

Obviously, the entire development will have a major impact on the surrounding thoroughfare system. That is a capital expense issue that will have to be addressed by the City Council and future bond funding proposals.

The Planning Commission recommended the requests with the following conditions:

1. Tracts 1 and 2 (C-3) shall be subject to a review of a master curb cut plan by the Planning Commission prior to any portion of the parcels being final platted.
2. Tracts 3, 4 and 7 shall be zoned as R-1 Specific Use subject to the following conditions:
  - The front setback minimum shall be 20 feet for non- cul de sac lots.
  - The front setback minimum for a cul de sac lot shall be five feet with the exception that any front entry garage shall have a 20-foot setback.
  - Any corner lot shall have a minimum side setback of five feet and the back yard fence adjacent to the street shall also have a five-foot setback.

3. Tracts 5 and 6 (C-3) shall have a limit of two curb cuts for the entire length of the parcels along Milwaukee Avenue.
4. Tracts 10, 11 (A-2) and 12 (C-3) shall have a master curb cut plan approved by the Planning Commission for the portions adjacent to a thoroughfare prior to final plat of any portion of the parcels.

### **FISCAL IMPACT**

None immediately, a development this size is going to have an eventual impact on both soft services and increase the demands on thoroughfare paving funds. As the development is completed, the City will receive additional property tax revenue.

The staff supports the recommendation of the request and conditions approved by the Planning Commission.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to pass on first reading Ordinance No. 2006-O0129 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.6. Public Hearing 10:00 a.m. - Zoning: Ordinance No. 2006-O0130 Zone Case No. 3049-A: Hold a public hearing to consider request of Betenbough Homes for a zoning change from T to C-3 and R-1 Specific Use on 71 acres out of Block E, Section 10.**

Mayor Miller opened the public hearing at 10:00 a. m. No one appeared on behalf of Betenbough Homes. No one appeared in opposition. Mayor Miller closed the hearing at 10:03 a. m.

The request is divided into two tracts:

1. The corner at 98th Street and Avenue P is requested as C-3.
2. The residential portion of the subdivision is requested as Specific Use to accommodate a reduction in setback for the front and side that has become common in new developments.

Adjacent land use:

N – a mixture of residential and commercial, annexed as nonconforming  
S – residential, a manufactured home community that is not in the City limits  
E – residential and commercial policy, not developed  
W – residential

The request represents a policy zone case with regard to the Comprehensive Land Use Plan and zoning policy.

The project will have an impact on the thoroughfare system by creating higher use demands. Because of the thoroughfare status of both Avenue P and 82nd Street, a staff request will be presented for a review of curb cuts from the C-3 portion prior to platting any portion of the parcel.

The Planning Commission recommended the request with the following conditions:

1. The C-3 tract shall be subject to a review of a master curb cut plan by the Planning Commission prior to any portion of the parcel being final platted.
2. Tracts residential portion of the request shall be zoned as R-1 Specific Use subject to the following conditions:
  - The front setback minimum shall be twenty feet for non- cul de sac lots.
  - The front setback minimum for a cul de sac lot shall be five feet with the exception that any front entry garage shall have a twenty-foot setback.
  - Any corner lot shall have a minimum side setback of five feet and the back yard fence adjacent to the street shall also have a five- foot setback.

#### **FISCAL IMPACT**

Other than the demand on City services, there are no unanticipated fiscal issues associated with this request.

The staff supports the recommendation of the Planning Commission.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to pass on first reading Ordinance No. 2006-00130 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

- 6.7. Central Business District Tax Increment Financing Reinvestment Zone 2006 Annual Report Resolution - Business Development: Resolution No. 2006-R0585 authorizing the Mayor to execute the Central Business District Tax Increment Financing Reinvestment Zone Annual Report for October 1, 2005 through September 30, 2006, which will be distributed to the chief executive officer of each taxing unit levying taxes within the Central Business District Tax Increment Financing Reinvestment Zone, to the Comptroller of the State of Texas, and to the Office of the Texas Attorney General.**

City Council created the Central Business District Tax Increment Finance Reinvestment Zone (CBD TIRZ) and appointed the TIRZ Board on December 3, 2001. According to the Texas Tax Increment Finance Act Section 311.016, the City must submit an annual report to the chief executive officer of each taxing unit that levies taxes on property within a tax increment finance zone. The report must be provided within 90 days of the end of the City's fiscal year and a copy must also be sent to the Office of the Attorney General and the Comptrollers Office.

The Texas Tax Increment Finance Act specifies that the report must include:

- Amount and source of revenue in the tax increment fund established for the zone,
- Amount and purpose of expenditures from the fund,
- Amount of principal and interest due on outstanding bonded indebtedness,
- Tax increment base and current captured appraised value retained by the zone,

- Captured appraised value shared by the city and other taxing units,
- Total amount of tax increments received, and
- Any additional information necessary to demonstrate compliance with the tax increment financing plan adopted by the City.

Staff prepared the 2006 annual report, which includes all of the information required by the above statute, and submitted it to the Central Business District TIRZ Board of Directors for approval. A summary of the information included in the report is as follows:

In May 2006, the CBD TIRZ received \$154,975 in net revenue for value earned in 2005 after the deduction of \$1,501 for collection services. Expenses in 2006 included \$3,854 in administrative costs and project costs of \$100,000 for the Downtown Redevelopment plan project.

The CBD TIRZ appraised value increased to \$137,773,996 in 2006 with a current captured appraised value of \$31,915,745. The current captured appraised value is the total value after the base year value is subtracted. The total tax increment to be received by the CBD TIRZ in 2007, from 2006 value, if collected at 98% is projected to be \$267,260 from all taxing jurisdictions.

The Central Business District Tax Increment Financing Reinvestment Zone Board of Directors approved the report at their November 14, 2006, meeting and submits it to the City Council for approval.

#### **FISCAL IMPACT**

No fiscal impact is anticipated.

Staff recommended that the City Council approve distribution of the 2006 Central Business District Tax Increment Financing Reinvestment Zone Annual Report as recommended by the Central Business District Tax Increment Financing Reinvestment Zone Board of Directors on November 14, 2006.

Rob Allison, Executive Director of Business Development, introduced Merle Blosser, Chairman of the Central Business District Tax Increment Financing Reinvestment Zone, who gave a summary of the Annual Report.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to pass Resolution No. 2006-R0585 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.8. Red Light Camera Automated Enforcement Ordinance 1st Reading - Traffic Engineering: Ordinance No. 2006-00131 amending the Code of Ordinances of the City of Lubbock, by amending Chapter 16, to add Article XIV, Automated Traffic Signal Enforcement.**

Due to the 79% increase in number of people killed statewide as a result of red-light running between 1975 and 1999, and the continued significant number of crashes due to red-light running in Lubbock, the Citizens Traffic Commission and the City Traffic Engineering Department have recommended

that City Council implement this new ordinance authorizing red light photo enforcement. Section 54.004 of the Local Government Code authorizes municipalities to enact ordinances deemed necessary to protect the health, life, and property of their citizens, and Section 542.202 of the Texas Transportation Code authorizes municipalities to regulate traffic by means of traffic control devices through criminal, civil, and administrative enforcement methods. Programs in other cities have shown that automated red light photo enforcement has been successful at reducing the number of crashes due to red light running.

#### **FISCAL IMPACT**

Revenues from automated red light photo enforcement will exceed the cost of equipment, operation, and maintenance. A Request for Proposals is currently being advertised for a turnkey comprehensive contract with a qualified contractor to operate a program in Lubbock. Based on data from many municipalities, the cost for the program is well below the revenue generated.

The Citizens Traffic Commission at its November 15, 2006 meeting recommended approval of this ordinance.

Jere Hart, Traffic Engineer, gave comments and answered questions from Council. All Council Members gave input on the proposed red light camera automated enforcement ordinance. Council Member Boren stated that, at some point, he would like to hear from Chief of Police Claude Jones to respond whether this will protect our citizens by allowing him to put more officers in the neighborhoods and fighting other crimes. Council Member Price asked Hart to bring back information on making the offense a criminal offense. He also asked Hart to check the intersection at MLK Blvd. and US Highway 84 for the "red-to-red" configuration. City Attorney Anita Burgess informed Council of what percentage of the money collected from the tickets would go to the city and how much would go to the state.

Motion was made by Council Member DeLeon, seconded by Council Member Jones to pass on first reading Ordinance No. 2006-00131 as recommended by staff. Motion carried: 6 Ayes, 1 Nay. Council Member Leonard voted Nay.

**6.9. Advance Funding Agreement Resolution - Finance: Resolution No. 2006-R0586 authorizing the Mayor to execute an Advance Funding Agreement with Texas Department of Transportation for the completion of Phase 3B of the Marsha Sharp Freeway.**

This Advance Funding Agreement with Texas Department of Transportation (TxDOT) obligates the City to make a \$25 million contribution toward the construction of Phase 3B of the Marsha Sharp Freeway. Phase 3B is comprised of the Salem Avenue to Chicago Avenue portion of the Freeway. The State has communicated to the City of Lubbock that the City's participation, as a result of this agreement, will expedite the completion of the Marsha Sharp Freeway by providing TxDOT the remaining funds needed to

bid Phase 3B of the project. By providing these funds, the State will also be able to complete the remaining phases of the Freeway on a faster timeframe.

Although there is a general statement that the funds to be provided by the City will be used to expedite the construction of the Freeway (due to no specific contractual commitment), adequacy of consideration issues are presented. As a result, the City must make a finding that the expenditure of public funds is consistent with public purpose. Although staff believes this fact to be true, the Council must specifically make this finding. Please see Article 1A of the Agreement for this language.

The City's contribution will be funded using Certificates of Obligation to be repaid with franchise fees from the Gateway Fund. The Advanced Funding Agreement limits the City of Lubbock's obligation to \$25 million.

#### **FISCAL IMPACT**

Included in item summary.

Staff recommended approval of this resolution.

Motion was made by Council Member Leonard, seconded by Council Member DeLeon to pass Resolution No. 2006-R0586 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

#### **6.10. Notice of Intent Resolution - Finance: Resolution No. 2006-R0587 authorizing publication of notice of intention to issue Tax and Waterworks System Surplus Revenue Certificates of Obligation.**

This resolution authorizes staff to publish a notice of intent to issue the Tax and Waterworks System Surplus Revenue Certificates of Obligation (Certificates) in the Lubbock Avalanche Journal. The Certificates are being issued to complete funding and expedite the completion of Phase 3B of the Marsha Sharp Freeway. The debt service payments on these obligations will be paid from franchise fees that are collected in the City's Gateway Fund.

The Advance Funding Agreement with the State of Texas requires that the City make equal installments of \$12.5 million on January 22, 2007, and again on January 22, 2008. The City's financial advisor has recommended that the entire \$25 million be issued at this time, and deposit \$12.5 million (amount that is due in 2008) in an interest bearing escrow account. The interest earnings rate will be fixed at the same interest rate that is paid on the bonds. Therefore, the interest expense on that portion of the \$12.5 million portion of the bonds will be offset by the interest earnings on those bonds. By doing this, the City will lock in today's interest rates on the debt and avoid additional bond issuance costs by avoiding a second issuance.

The advance funding agreement that outlines the duties of the City and the State is also included on this Council Agenda.

#### **FISCAL IMPACT**

Included in item summary.

To proceed with the debt issuance process, the approval of this resolution is recommended.

Motion was made by Council Member DeLeon, seconded by Council Member Price to pass Resolution No. 2006-R0587 as recommended by staff. Motion carried: 7 Ayes, 0 Nays.

**6.11. Budget Amendment Ordinance 1st Reading - Finance: Ordinance No. 2006-O0132 Amendment #4 amending the FY 2006-07 budget respecting the Capital Improvement Program, General Fund, Lubbock Economic Development Alliance, and Civic Lubbock, Inc.**

1. Amend Capital Improvement Project #90359 titled "Southeast Water Reclamation Plant (SEWRP) Head Works Pump Rehabilitation" by increasing the appropriation by \$1,010,073 for the necessary repair of a major failure of the screw pumps at the SEWRP. The project costs will be funded from FY 2007 Certificates of Obligation.
2. Amend Capital Improvement Project #9742 titled "Water Lines Ahead of Sharp Freeway" by increasing the appropriation by \$1,293,528 for the completion of this project. The project costs will be funded from FY 2007 Certificates of Obligation.
3. Appropriate \$390,000 from General Fund fund balance for a grant to Lubbock Economic Development Alliance (LEDA) for the development and diversification of the economy, elimination of unemployment and underemployment, and the development and expansion of commerce. The specific project related to this grant involves the purchase of a 301 acre tract of land north of the Lubbock Preston Smith International Airport known as the "Lubbock Rail Port".

LEDA will use the grant funds to purchase this property from the City. The proceeds from the purchase of this land will be paid into the General Fund.

4. Amend the General Fund budget to account for \$124,567 in increased commission revenues from concession sales, merchandise and catering from Civic Lubbock, Inc. (CLI). Amend the General Fund budget to account for \$277,234 in increased expenditures for City of Lubbock employees that were previously reimbursed by CLI. The increased commission revenues and reduced reimbursement of employee expenses is a result of the negotiated agreement between the City and CLI. The revenue shortfall of \$152,667 will be covered by the General Fund fund balance.

**FISCAL IMPACT**

Included in item summary.

Staff recommended approval of the first reading of this ordinance.

Jeff Yates, Chief Financial Officer, gave comments and answered questions from Council.

Motion was made by Mayor Pro Tem Gilbreath, seconded by Council Member Leonard to pass on first reading Ordinance No. 2006-00132 with an amendment to omit Item 4, relating to Civic Lubbock, Inc. Motion carried: 7 Ayes, 0 Nays.

**6.12. This item was considered following Item 7.1.**

**7. WORK SESSION**

**7.1. 2007 Population Estimate - Planning: The Planning Department will present their 2007 population estimate.**

The Planning Department prepares an annual population estimate that is distributed to City Council and staff and made available to the public. This estimate is used by businesses, students, service organizations, churches, and persons who are interested in our community. The Planning Department has prepared these estimates since the early 1980s. The latest comparison of these estimates was in 2000 when the Census Bureau reported a population of 199,564 compared to the Planning Department estimate of 199,445.

The Planning Department recommended an estimated population of 212,365. This population estimate is determined by averaging five factors: water meters in service, labor force trends, land use database (based on housing), historic trends, and registered vehicles. The estimated percent racial/ethnic composition is: Anglo 56.8%, Hispanic 31.3%, African American 8.7%, Asian and Pacific Islander 1.9%, American Indian 0.3%, and two or more races 1.0%. This population estimate is forwarded to both the Texas State Data Center and the Census Bureau for consideration in the preparation of their estimates. Forwarding this material has helped to reduce the difference in the Census Bureau's and Texas State Data Center's estimates. In 2000 the Census Bureau's estimate was 4.5% below the actual count and the Texas State Data Center was 2.6% below the actual count. Estimates generally have been within about one percent since the City began submitting the Planning Department estimate to these organizations.

David Buckberry, Senior Planner, made presentation to Council and then answered questions.

**11:34 A.M. CITY COUNCIL RECESSED TO EXECUTIVE SESSION**

**1:42 P.M. CITY COUNCIL RECONVENED**

**6.12. Board Appointments - City Secretary: Consider one appointment to Animal Shelter Advisory Committee, two appointments to Libraries Board, two appointments to Central Business District Tax Increment Financing Reinvestment Zone, one appointment to Junked Vehicle Compliance Board, one appointment to Lubbock Emergency Communication District Board of Directors, five appointments to Planning & Zoning Commission, four appointments to Structural Standards Commission, and one appointment to Water Board of Appeals.**

Regular City Council Meeting  
December 7, 2006

Motion was made by Council Member Leonard, seconded by Council Member DeLeon to appoint Todd Klein to the Animal Shelter Advisory Committee. Motion carried: 7 Ayes, 0 Nays.

Motion was made by Council Member Leonard, seconded by Council Member DeLeon to reappoint Helen Holley and appoint Pamela Casto to the Libraries Board. Motion carried: 7 Ayes, 0 Nays.

Motion was made by Council Member Leonard, seconded by Council Member DeLeon to reappoint Tony Cardinal and Mike Davis to the Central Business District Tax Increment Financing Reinvestment Zone. Motion carried: 7 Ayes, 0 Nays.

Motion was made by Council Member Leonard, seconded by Council Member DeLeon to appoint Brent Stewart to the Junked Vehicle Compliance Board. Motion carried: 7 Ayes, 0 Nays.

Motion was made by Council Member Leonard, seconded by Council Member DeLeon to reappoint George Ewing to the Lubbock Emergency Communication District Board of Directors. Motion carried: 7 Ayes, 0 Nays.

Motion was made by Council Member Leonard, seconded by Council Member DeLeon to reappoint Jerry Bell, Greg Garland, and Jeffery Whitaker, and appoint Shirley Schleuse and Henry Lozada to the Planning & Zoning Commission. Motion carried: 7 Ayes, 0 Nays.

Motion was made by Council Member Leonard, seconded by Council Member DeLeon to appoint Mike Arnold and Michael Martin to member status, and appoint Jimmy Pharr and Robert Rodriguez to alternate status of the Structural Standards Commission. Motion carried: 7 Ayes, 0 Nays.

Motion was made by Council Member Leonard, seconded by Council Member DeLeon to appoint Dewey Shroyer to the Water Board of Appeals. Motion carried: 7 Ayes, 0 Nays.

**1:45 P. M. COUNCIL ADJOURNED**

There being no further business to come before Council, Mayor Miller adjourned the meeting.